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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
THE BOARD OF APPEALS AND INTERFERENCES**

Applicants: Brian L. Matthews and Sharon D. Dodge
Serial No: 09/551,420
Title of Invention: METHOD OF PERFORMING AN INTERACTIVE
PHOTOGRAPHIC ASSIGNMENT
Filing Date: April 18, 2000
Group Art Unit: 2131
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APPEAL BRIEF

Sirs:

The above listed Applicant and now Appellant, in regards to the above listed application for a non-provisional U.S. letters patent, again submits an Appeal Brief to the Board of Patent Appeals and Interferences, under 37 CFR 41.31. This appeal is made in response to an Office Action by the Primary Examiner. The Office Action now being appealed was mailed on May 1, 2006 and rejected claims 1 through 14 of the application. Although this Office Action was not designated as final, the present appeal is an appropriate response to the May 1, 2006 Office Action, as provided for under MPEP 1207.04, in that the May 1, 2006 Office Action re-opened prosecution after the Applicants' initial appeal filed on November 10, 2005.

The Notice of Appeal, pre-requisite to this refiled Appeal Brief, was timely filed within the shortened three month statutory response period, on August 1, 2006. No fees should be required with this Appeal Brief, in that the Applicants' prior Appeal Brief, as filed February 10, 2006, included the requisite Appeal Brief filing fee of \$250.00.

I. REAL PARTY IN INTEREST

The real party in interest for the present matter is Illustration Works, Inc., a Washington state corporation, principally located in Seattle, WA.

II. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to the Appellants or the Appellants' legal representative, which will directly affect or will be directly affected by or have bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1 through 14 are currently pending and are reproduced in their presently amended form in Appendix I, attached hereto. All claims stand finally rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent No. 6,167,382 to Sparks et al, in view of U.S. Patent No. 6,980,964 to Cocotis et al., or in further view of U.S. Patent No. 6,049,877 to White.

IV. STATUS OF AMENDMENTS

No amendment has been filed subsequent to the final rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The invention is directed to a method for electronically specifying, negotiating, generating, and assigning a photographic assignment project. The method employs a server-based control program (see page 8 of the specification (spec.), beginning at line 3, and page 79 of the spec., beginning at line 19, and FIG. 16, reference number (ref. no.) 1602), and preferably utilizes an Internet web browser (see page 8 of the spec., beginning at line 4, and page 12 of the spec., beginning at line 15, and FIG. 2A, ref. no. 207), to interface with the users of the assignment process. The users can include a client or group of clients, a photographer or photographers, and the program host or server (see page 8 of the spec., beginning at line 18, and FIG. 16, ref. nos. 1614 and 1616).

Each user is uniquely identified when the host's control program receives a photographic assignment request from the user and issues a user identification and an access code for that specific user (see page 12 of the spec., beginning at line 1, and FIGs. 1 and 2A, ref nos. 50, 105, 112, 201 and 205). The user may have preselected one or more photographers for the assignment project, or the control program can allow the user to search a photographer data base for one or more photographers that fit the user's requirements (see page 19 of the spec., beginning at line 16, and FIG. 4, ref no. 410). The results of the search of the photographer data base by the control program include a photographer name and additional information similar to a portfolio for the photographer (see page 27, beginning at line 7, and FIG. 16, ref. no. 1608). These results are generated and then transmitted to the user (see page 20 of the spec., beginning at line 3, and FIG. 4, ref no. 412). The user reviews the results and then responds back to the control program (see page 28 of the spec., beginning at line 18, and FIG. 6, ref. no. 623).

The control program then receives a photographic assignment specification from the user (see page 22 of the spec., beginning at line 12, and FIG 5, ref. no. 505), preferably in the form of a questionnaire or query formulated by the control program based upon input from the user. The specification details the criteria for the photographic assignment. This specification can include, for example, the usage required on the photographs, how many shots, and whether the photographs will include models.

After the control program receives an approval of the photographer and specification from the user, the control program then generates a photograph request, transmitted for the approved photographer (see page 54 of the spec., beginning at line 1, and FIG 10, ref. no. 1515). The control program transmits the photograph specification in the form of a request to the photographer and the photographer responds with a photographic assignment specification acceptance to the control program. The photographers have the ability to review and fine tune the generated estimates as desired to reflect requirements that are unique to the project. The photographers can adjust the project quotation or bid slightly more or less than the program-generated estimate that was based on project specifications.

As part of the project, the photographer can submit photographic images in response to the specification (see page 55 of the spec., beginning at line 20, and FIG 11, ref. no. 1103). The control program then generates a photograph submittal for the user, which is transmitted to the user for review (see page 35 of the spec., beginning at line 16, and FIG 7, ref. no. 715). After receiving a photograph review from the user, a user review report is generated for and transmitted to the photographer (see page 53 of the spec., beginning at line 7, and FIG 10, ref. no. 1015).

An acceptance receipt to the photographer can be generated with the control program.(see page 49 of the spec., beginning at line 20, and FIG. 9B, ref. no. 925). This receipt can be in response to a revised image received by the user, which was transmitted to the user for review and comment.

The control program meets the needs of the users in providing a private and secure photographic assignment. For each progressing project, the photographic assignment control program can receive revisions and comments from any number of users, and track the revision history of the project from initiation to completion.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Under 35 U.S.C. § 103(a), is claim 8 unpatentable over U.S. Patent No. 6,167,382 to Sparks et al., in view of U.S. Patent No.6,980,964 to Cocotis et al.?

B. Under 35 U.S.C. § 103(a), are claims 1 through 7, and claims 9 through 14, unpatentable over U.S. Patent No. 6,167,382 to Sparks et al., in view of U.S. Patent No.6,980,964 to Cocotis et al., in further view of U.S. Patent No. 6,049,877 to White?

VII. ARGUMENT

A. Claim 8

Firstly, the Examiner rejected claim 8, under 35 U.S.C. § 103(a), as unpatentable over U.S. Patent No. 6,167,382 to Sparks et al. (Sparks '382), in view of U.S. Patent No. 6,980,964 to Cocotis et al. (Cocotis '964).

However, Cocotis '964 fails as a proper reference of prior art. **Cocotis '964 was filed July 27, 2000**, without citing priority to any previous applications. **The Applicants' application was filed April 18, 2000**. It is a well established, foundational precept of patent law that the for examination purposes, the date of invention is initially considered to be the filing date of the application, please see *Bates v. Coe*, 98 U.S. (8 Otto) 31, 34 (1878). The Examiner failed to provide an appropriate prior art reference in Cocotis '964, which was *prima facie* not available to the public prior to the Applicants' invention.

The Applicants' Claim 8 specifically requires that a database be searchable by a user for information relating to a photographer, the photographer's criteria matching a photographic assignment by the user. Sparks '382, on its own, fails to disclose all elements arranged as found in claim 8. Specifically, Sparks totally fails to suggest, teach or disclose the access of a photographer to the interaction between the user/client and the photographs produced as a result of an assignment. The client employing the Sparks' system assembles a marketing piece consisting of a series of stored, stock images, according to one of a series of predefined templates. There is no plausible analogy between any element in the process taught by Sparks, to the role of the photographer as required in the Applicants' claims. A resident "image assembler software" package falls well short of a searched

for and selected photographer. The Applicants' photographer is not a single, resident agent, but a variable, a selectable entity existing outside any sort of database. Furthermore, an assembler software package is not able to create a new photograph based upon a user specification. Instead, as noted by the Examiner, the assembler package of Sparks only searches a database for a matching "image of a product," already on file.

The database of Sparks '382 does not include any analogous selection or listing of photographers, who then shoot photographs to meet the needs of the user. An image database is a collection of images. By contrast, the Applicants' photographer database is a collection of various photographers' specifications, each photographer with the ability to act as an agent to acquire new images outside the photographer's database, independently of some sort of database of previously collected images. Selecting an photograph/image is **not** selecting a photographer/agent. The Applicants' claim 8 includes a *photographer* database not found in Sparks, and furthermore Sparks fails to teach such a listing of photographers for use as *active* agents.

Without an actual photographer, responding to a photographic assignment request for an original photograph, Sparks '382 failed as an anticipatory reference in that claim 8 includes elements not found in the cited reference. The Examiner essentially acquiesced to this assertion, by retracting the anticipation rejection under 35 U.S.C. § 102(e), and adding the improper reference to Cocotis '964 in an attempt to fill the above discussed coverage "gap" in the prior art, converting the rejection to an obviousness rejection under 35 U.S.C. § 103(a).

This gap in prior art coverage by Sparks '382 as a stand alone reference, includes Sparks' failure to disclose or suggest the selection of a photographer as an active agent for the user. A

software program that assembles images is not a photographer, that can “communicate” with, be “manipulated,” and “responds to” a user, as required by claim 8.

Specifically, the Applicants disagree with the Examiner’s assertion that the “image of a product” disclosed in Sparks ‘382, somehow equates with the “photographer” of the Applicants’ claims. A photographer is a living, interactive and active agent, not an item, nor an image of an item. The photograph, ultimately produced by the Applicants’ photographer, may be an exact, realistic image, or a broad or abstract image, such as a blurred expression of specific or non-specific elements. This is not the assembly-line selection of one in a narrow, pre-set array of fast-food images, as taught by Sparks. The *photographer* is selected by the Applicants’ system of claim 8, not the *image*, as disclosed by Sparks.

Under the previous rejections, the Examiner argued that the Applicants’ photographer is somehow inherent to Sparks’ disclosure of an “image assembler software.” However, inherency may not be established by probabilities or possibilities. “The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient.” *In re Oelrich*, 666 F. 2d 578, 212 USPQ 323, 326 (C.C.P.A. 1981). (See also *Transclean Corp. v. Bridgewood Serv., Inc.*, 290 F.3d 1364, 1372-73, 62 USPQ2d 1865, 1870-71 (Fed. Cir. 2002); *MEHL/Biophile Int’l Corp. v. Milgram*, 192 F.3d 1362, 1365, 52 USPQ2d 1303, 1305-06 (Fed. Cir. 1999); *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999); *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268-69, 20 USPQ2d 1746, 1749-50 (Fed. Cir. 1991); and *In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986). Under the present rejection, the Examiner now admits (on page 4, second paragraph of the May 1, 2006 Office Action) that Sparks fails to include a photographer selection corresponding to a photographer assignment specification.

The Examiner has failed to provide a *prima facie* case for obviousness, asserting that claim 8 is unpatentable over Sparks '382, in view of Cocotis '964. Therefore, the Applicants' claim 8 is allowable over Sparks and Cocotis. Furthermore, no reference properly combinable with Sparks teaches the claimed automated and orchestrated interaction or "assignment," between a user and a photographer/agent, to produce a photographic work, rather than some sort of an automated selection and formatting of pre-set image from an existing catalog or database, as disclosed by Sparks.

B. Claims 1 through 7, and 9 through 14

Secondly, the Examiner rejected claims 1 through 7, and 9 through 14 as being unpatentable over U.S. Patent No. 6,167,382 to Sparks et al. (Sparks '382), in view of U.S. Patent No. 6,980,964 to Cocotis et al. (Cocotis '964), in further view of U.S. Patent No. 6,049,877 to White (White '877).

Again, Cocotis '964 fails as a proper reference of prior art. **Cocotis '964 was filed July 27, 2000**, without citing priority to any previous applications. **The Applicants' application was filed April 18, 2000**. It is a well established, foundational precept of patent law that the for examination purposes, the date of invention is initially considered to be the filing date of the application, please see *Bates v. Coe*, 98 U.S. (8 Otto) 31, 34 (1878). Again, the Examiner failed to provide an appropriate prior art reference in Cocotis '964, which was *prima facie* not available to the public prior to the Applicants' invention.

Specifically regarding claim 1, the Examiner now admits that Sparks '382 does not expressly disclose a photographer selection corresponding to the photographer assignment specification, (see

page 6, fifth paragraph of the May 1, 2006 Office Action.) The Applicants agree that Sparks '382 only deals with the cataloging, searching, manipulation and sales of an existing library of stock images. The Examiner attempts to add a vital step, missing from Sparks, by an improper reference to Cocotis '964. No "photographer selection" function is present in the properly cited references, only the search of an online database of exiting images, followed by the purchase of these images in template products, the image modified within strict bounds of the template imposed by the host, rather than by a photographer at the assignment direction of the client/user, as the Applicants' purpose.

"The mere fact that the prior art may be modified in the manner suggested by th Examiner does not make the modification obvious unless prior art suggested the desirability of the modification." *In re Fritch*, 972 F.2d 1260, 23 USPQ 2d 1780 (Fed. Cir. 1992).

No properly cited reference teaches a selection of a *photographer* by a user, followed by a request made to that selected photographer, for a photograph that fits the user's specifications. However, the Examiner jumps to the erroneous conclusion that the on-line catalog template selection process of Sparks '382, added to the internet client authentication technology of White '877, somehow equates to the Applicants' claims, skipping the required step of photographer *selection* and *interaction*. The use of a single packaged "image assembling" program to search for and modify a stock image, is not a selection of one of many agents, from listing of agents, the selected agent able to generate a desired image.

The Examiner is also erroneous in asserting the there is an "assembly of pre-created images and templates from a library," in the Applicants' claims. There are no user modifiable "templates"

in the Applicants' claims, nor is there a "store" or cataloged library of product images. The search for an image by "keyword", "category" or "icon" is not a search for a photographer, who then generates a photograph, based upon submitted criteria. The Examiner erroneously analogizes a search for and selection of an image, and a subsequent modification of that image by an automated software package; to the search for and selection of a photographer, and a subsequent submittal of a photograph to a user, the photograph taken by that photographer, and a modification of that photograph through additional interactions between the photographer and the user. The selection of a photographer/agent is missing from Sparks '382. Sparks begins with the search for an image, instead of the Applicants' claim 1 search for photographer agents, one of which is selected by the user, as best able to acquire potential images, to suit the image needs of the user.

"There must be a reason or suggestion in the art for selecting the [combination], other than the knowledge learned from the Applicant's disclosure." *In re Dow Chemical Co.*, 837 F.2d 469,473, 5 U.S.P.Q.2d 1529 (Fed. Cir. 1988).

Additionally, in determining whether a particular combination of prior art elements is taught or suggested, it is critical to consider "the particular results achieved by the new combination. . . ." *Interconnect Planning Corp v. Feil*, 744 F.2d 1132,1143,227 U.S.P.Q.2d 543 (Fed. Cir. 1985)(emphasis added).

In order to establish a *prima facie* case of obviousness, an examiner must show that some objective teaching, suggestion or motivation in the applied prior art taken as a whole and/or knowledge generally available to one of ordinary skill in this art would have led that person to the claimed invention as a whole, including each and every limitation of the claims, without recourse to

the teachings in appellants disclosure. (*See generally, In re Rouffet*, 149 F.3d 1350, 1358, 47 USPQ2d 1453, 1458 (Fed. Cir. 1998); *Pro-Mold and Tool Co. v. Great Lakes Plastics Inc.*, 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1629-30 (Fed. Cir. 1996); *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Fritch*, 972 F.2d 1260, 1265-66, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992); *In re Laskowski*, 871 F.2d 115, 10 USPQ2d 1397 (Fed. Cir. 1989); *In re Fine*, 837 F.2d 1071, 1074-76, 5 USPQ2d 1596, 1598-1600 (Fed. Cir. 1988); and *In re Dow Chem. Co.*, 837 F.2d 469, 473, 5 USPQ2d 1529, 1531-32 (Fed. Cir. 1988).)

The requirement for objective and factual underpinnings in a rejection under § 103(a) extends to the determination of whether the references can be combined. (*See In re Lee*, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002), and cases cited therein. No properly cited reference discloses the Applicants' claimed feature of "searching a photographer database for a photographer," and "receiving an image from the photographer," after a "photograph request" is made to the selected photographer. Instead, Sparks '382 only teaches the re-formatting of previously cataloged and existing images with a web-based program. The Examiner has failed to provide a *prima facie* case of obviousness in citing Sparks '382, in view of Cocotis '964, an improper reference, and especially in further view of White '877. No modification of Sparks, with or without the **proper** combination of any reference of record, serves to render the Applicants' claim 1 unpatentable. Photographer selection is missing from Sparks, and cannot be somehow inferred in hindsight, as being included in the modification of an image in a catalog, according to a pre-set template.

As to claims 2 and 9, the Examiner again asserts that Sparks '382 discloses interaction between a user and a photographer, but admittedly does not expressly disclose a photographer selection corresponding to the photographer assignment specification, (see page 8, sixth paragraph of the May 1, 2006 Office Action.) The Applicants again observe that Cocotis '964 fails as a proper reference of prior art, and Sparks only discloses a "yes-or-no" acceptance by the user before a purchase of items. The pre-purchase "revision" that the Examiner refers to is a standard "shopping-cart" type of approval, as typically employed in nearly every internet shopping site. Clicking items ordered before "check-out" for purchase is *not* an interactive exchange involving direct "review and comment" from the user to the photographer, as proposed in claim 2 and 9 by the Applicants. Sparks fails to teach a dialog of modification, only a canned, pre-set accept/reject option to the content of an item for purchase, within a standard virtual shopping-cart.

Additionally, claims 2 and 9 are considered patentable because they depends from claim 1 and 8, respectively, which are considered patentable as discussed above.

As to claims 3 and 10, these claims are considered patentable because they depend from claim 1 and 8, respectively, which are considered patentable as discussed above. The use of user control codes is known, but not in the access of a program by a user that invites the generation of a photograph from a selected photographer at the request and direction of a user, and maintains the interaction in an electronically secure exchange.

As to claims 4 and 11, just as with claims 3 and 10, above, these claim are considered patentable because they depend from claims 1 and 8, respectively, which are considered patentable

as discussed above. The Examiner admits that Sparks '382 does not disclose wherein the control program generates and authenticates the photographer's access code (see page 10, third paragraph of the May 1, 2006 Office Action.) The Applicants again observe that Cocotis '964 fails as a proper reference of prior art, and is not combinable with Sparks to teach this aspect of the Applicants' claims.

Additionally, for claims 4 and 10, Sparks '382 fails to disclose the access of a photographer to the interaction between the user/client and the photographs produced as a result of an assignment. There is no possible analogy within the process taught by Sparks, to the role of the photographer as required in the Applicants' claims. Again, there is no agent or photographer searched for and selected in Sparks, only images.

As to claim 5 and 12, these claims are also considered patentable because they depend from claims 1 and 8, respectively, which are considered patentable as discussed above. Granted, a progress history of an electronic interaction is well known. However, such a history in association with a control program that interactively completes a photographic assignment at the direction of a user is not known. Again, the Examiner erroneously asserts that Sparks somehow teaches the role of the photographer interacting with the assignment specifications of the user, as required in the Applicants' claims.

As to claims 6 and 13, these claims are also considered patentable because they depend from claims 1 and 8, respectively, which are considered patentable as discussed above. Specifically, e-mail updates and communications are well-known. However, the generation of e-mails in the course of

an interaction, where the user is interactively completing a photographic assignment at the direction of a user is not known, and is novel and patentable over the prior art of record.

As to claims 7 and 14, the Applicants' strongly assert that Sparks '382 fails to teach the display of a progress work or illustration to the user. Instead, Sparks only discloses the display of the image selected by the user, for purchase. One skilled in the art could not take the disclosure of Sparks to teach the display of a photograph to a user, the photograph submitted in proposal by a third party photographer to the user in response to a specification submitted to the photographer by the user. Claims 7 and 14 are also considered patentable because they depend from claims 1 and 8, respectively, which are considered patentable, as discussed above.

C. Claim Groupings

Claims 1 through 7 form a Group I, with respect to the issues set forth above. In particular, independent claim 1 recites a method of electronically generating and assigning a photographic project. Dependent claims 2 through 7, add further refinements to the method of independent claim 1. The claims of Group I do not stand or fall together. The appealed claims are separately patentable over the cited references, as specifically discussed herein.

Claims 8 through 14 form a Group II, with respect to the issues set forth in the issue, as stated above. In particular, independent claim 8 is directed to an electronic system for generating and assigning a photograph by a remotely located user with a remotely located photographer. Dependent claims 9 through 14, add further refinements to the system of independent claim 8. The claims of

Group II do not stand or fall together. The appealed claims are separately patentable over the cited references, as specifically discussed herein.

D. Summation of Argument

In view of the above remarks regarding the cited art, it is respectfully submitted that the Applicants' invention is not rendered unpatentable. Any reference to Cocotis '964 is improper in that Cocotis was not available to the public prior to the Applicants' invention. The Applicants assert that base claims 1 and 8, and the claims that depend therefrom, are not merely describing successive searches of database for "the image of a product," as asserted by the Examiner. A photographer is not an image of a product. There is no image reference catalog or library search for an actual image in the Applicants' claims. Only the review of images provided to the user in response to a specification, submitted to a selected photographer. Sparks '382 misses the step of searching for and selecting a photographer/agent, who in turn generates a photograph based upon the user's specifications. No modification of Sparks, with or without the **proper** combination of any reference of record, serves to render the Applicants' claims unpatentable.

The evidence cited by the Examiner is insufficient to establish a *prima facie* case of obviousness, with respect to the claims under appeal. See *In re Rijckaert*, 9 F.3d 1531,1532,28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A *prima facie* case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the references to arrive at the claimed invention. See *In re Litner*, 458 F2d 1013,1016,173 USPQ 560,562 (CCPA 1972). No properly applied prior art suggests the claimed invention.

It is well settled that the examiner must point to some teaching, suggestion or motivation in the prior art to support the combination of references. (*See Lee, supra; Smith Industries medical Systems, Inc. v. Vital Signs, Inc.*, 183 F.3d 1347, 1356, 51 USPQ2d 1415, 1420-21 (Fed. Cir. 1999); *In re Mayne*, 1043 F.3d 1339, 1342, 41 USPQ2d 1451, 1454 (Fed. Cir. 1997); *Fritch*, 972 F.2d at 1266, 23 USPQ2d at 1783; *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 9292, 933 (Fed. Cir. 1984); *In re Keller*, 642 F.2d 413, 425-26, 208 USPQ 871, 881-82 (CCPA 1981); *see also Dow Chem.*, 837 F.2d at 473, 5 USPQ2d at 1531 (“The consistent criterion for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that [the claimed process] should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. [Citations omitted] Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant’s disclosure.”).

Especially without Cocotis ‘964, the only inspiration to modify Sparks in the manner provided by the Examiner to also include the user identification functions disclosed by White, and additionally couple with a knowledge typical of persons having ordinary skill to somehow equate to the Applicants invention, as claimed, can only stem from hindsight knowledge. The addition of hindsight is permissible without sufficient teachings in the references cited. These references fail to support an obviousness rejection under § 103. (*See W.L. Gore and Associates, Inc. v. Garlock, Inc.*, 721 F. 2d 1540, 1553, 220 USPQ 303, 312-13) FED. Cir. 1983), cert.denied, 469 U.S. 851 (1984).)

E. Conclusion of Argument

Therefore, in view of the above arguments and citations, the Appellant requests the Board to reverse the rejections of claims 1 through 14, as the Examiner has failed to make a *prima facie* case of obviousness.

Respectfully submitted,
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VIII. CLAIMS APPENDIX

The following is claimed:

1. A method of electronically generating and assigning a photographic project comprising the steps of :

receiving a photographic assignment request from a user, the photographic assignment request received by a control program, the control program based within a first server;

issuing a user identification by the control program, the user identification specifically corresponding to the user;

receiving a photographic assignment specification from the user, the photographic assignment specification received by the control program;

searching a photographer data base for a photographer;

generating with the control program, a search result including a photographer selection, the photographer selection corresponding to the photographic assignment specification received by the control program, and the photographer database stored within a second server;

transmitting the search result of the photographer selection to the user;

receiving an approval of the photographer selection from the user;

generating with the control program, a photograph request for the photographer;

transmitting the photograph request to the photographer;

receiving an image from the photographer;

generating with the control program, a photograph submittal for the user;

transmitting the photograph submittal to the user for review;
receiving a photograph review from the user;
generating a user review report for the photographer; and
transmitting the user review report to the photographer.

2. The process of claim 1, further comprising the steps of:

receiving with the control program, a photograph revision from the photographer, the photograph revision in response to a review by a user;
generating with the control program, a revised image for the user;
transmitting the revised image to the user for review and comment;
receiving with the control program, an approval from the user; and
generating with the control program, an acceptance receipt to the photographer.

3. The method of claim 1, further comprising the steps of:

generating with the control program, an access code for the user; and
authenticating access to the control program by the user by requiring the user to submit the access code to the control program.

4. The method of claim 1, wherein the step of transmitting the photograph request to the photographer further comprises the steps of:

generating with the control program, a photographer access code specifically for the photographer; and

authenticating the photographer's access to the control program by requiring the photographer to submit the photographer access code to the control program.

5. The method of claim 1, further comprising the step of:

providing the user a photograph generation and assignment progress history.

6. The method of claim 1, wherein the step of transmitting the photograph request to the photographer further comprises the step of:

generating an e-mail message to the photographer, the e-mail message containing the project description and control program contact information.

7. The method of claim 1, wherein the step of transmitting the photograph submittal to the user further comprises the step of:

displaying a progress image to the user.

8. An electronic system for generating and assigning a photograph by a remotely located user with a remotely located photographer, the system comprising:

a control program associated with a server, the control program capable of communicating with

a user and additionally capable of communicating with a remotely located photographer, the

control program capable of receiving a request for a photographic assignment from the user;

a database associated with the control program, the database including a store of information relating to a photographer, the database searchable for a photographer having a criteria set that corresponds to the photographic assignment from the user; and
an electronic interface having the ability to transmit a communication between the user and the photographer as manipulated by the control program, the communication including a photograph specification by the user and a response to the photograph specification by the user.

9. The electronic system of claim 8, further comprising:

an photographic revision received from the photographer, the photographic revision by the control program in response a review by a user;

a revised photograph generated with the control program, the revised photograph transmitted to the user for a review and comment;

an approval from the user received with the control program; and

an acceptance receipt to the photographer generated with the control program.

10. The electronic system of claim 8, further comprising:

an access code for the user, the access code generated with the control program; and

an authentication for access to the control program by the user, the authentication achieved by requiring the user to submit the access code to the control program.

11. The electronic system of claim 8, further comprising:

a photographer access code specifically generated for the photographer, the photographer access code generated with the control program; and

an authentication of an access by the photographer to the control program by requiring the photographer to submit the photographer access code to the control program.

12. The electronic system of claim 8, further comprising:

a photograph generation and assignment progress history, provided to the user by the control program.

13. The electronic system of claim 8, further comprising:

an e-mail message to the photographer, the e-mail message generated by the control program, and the e-mail message containing a project description and control program contact information.

14. The electronic system of claim 8, further comprising:

a progress photograph displayed to the user by the control program.

IX. EVIDENCE APPENDIX

No evidence has been entered by the Applicants pursuant to this appeal.

X. RELATED PROCEEDINGS APPENDIX

No related proceedings have been entered by the Board or a court pursuant to 37 C.F.R. § 41.37(c)(1)(ii).